



Town Council Meeting
November 5, 2020



The November 5, 2020 meeting of the Barnstable Town Council was physically closed to the public to avoid group congregation.

A quorum being duly present, President Paul Hebert called the November 5, 2020 Town Council meeting to order at 7:00 p.m. from a remote location.

An announcement was made by President Hebert regarding the meeting being televised live and questioning if anyone was actively taping the session to please make their presence known. This session is recorded and broadcast on Channel 18.

PRESENT: (On Zoom) David Bogan, Kristine Clark, Jennifer Cullum, Debra Dagwan (7:08), Jessica Rapp Grasseti, Paul Hebert, Matthew Levesque, Paul Neary, Paula Schnepf, Tracy Shaughnessy, Gordon Starr. Eric Steinhilber.

The Pledge of Allegiance was led by Town Council President Hebert followed by a moment of silence. God Bless America

PUBLIC COMMENT:

Janet Davis is opposed to the 5G installation in Centerville, and quoted experts evidence of dangerous radiation emissions from 5G installations.

Barbara Lewis concerned about property rights in the Town of Barnstable, wants to continue to rent out her house and use the property as she sees fit. The town benefits from her rentals.

Anna Lewis a property owner in Centerville and rent out our property in the summer. We would like to keep her right to rent her home so she may retire one day to the Cape.

Dave Schmidt shared thoughts regarding short term rental, has owned his house for eight years, 2020-192 is a solution in search of a problem. Grandmother lived on the Cape and they spent many summers with her. Enforce the rules and accountability. We want to continue to rent our home; we have not had a complaint. Please vote yes on 2020-193 to allow us to continue to rent our home.

Michael Cannistra home owner in the Town of Barnstable parents and siblings own homes on Cape Cod. He rents out property, to provide the ability to pay the mortgage and taxes. Have not had a single complaint; please vote yes on 2020-193.

Wendy Northcross supports the action of the Town Council; the Cape Cod Chamber is

seeking business parity as to overnight stays, taxes, protecting health and safety of the residents. Occupancy tax of 6% is now applied to Short Term Rentals (STR) which is important revenue for the town. These funds are going into a stabilization fund for all towns on the cape to protect the water resources on Cape Cod. Regulate not eliminate STR in Barnstable.

Nancy Sabin purchased a home in Osterville, made financially possible by renting out our home in the summer so that they may retire here. We have had the same people renting year after year; benefits of rental units generate a steady stream to other businesses on the Cape. We generate revenue through taxes to the town.

Denise Toland owns a home in Osterville, we have rented the house in the summer, through a realtor, never had a problem or a complaint. Important to me that we support the town and I support summer rentals.

Steve Madden current property that we rent out on the Cape, the money goes back into the taxes, and other ways. We pay a higher property tax due to renting our house. The rental income money is taxed and we spend the money keeping up the property. In the years we have rented our house we have not had one complaint. Suggest it is pure discrimination if you don't allow a family to rent a house on Cape Cod.

Meghan Cleary new resident, we are not able to afford this home with out the rental income. I spent my summers on the Cape. Our interests align with the town, we have respectful renters. It is possible to participate in STR with responsibility.

Pamela Randon we used rentals to help us sustain my parent's real estate when my mother could no longer live on her own. It would be nice to know how many problems there are, a better way of tackling this problem is to gather data on STR before you change everything.

Ling we can only keep the house with the rental income to pay taxes. Go through a reputable realtor, have many of the same renters each year. Good experience for the local community. She encourages the Council to continue to allow us to rent.

Tina Carey informed the tax payers about the notice of the 2021 re-evaluations; raising the property evaluations, feels the evaluations are "out of whack." You only have until next Friday to dispute the evaluation of the property. Does anyone even know what the tax rate is going to be in 2021? What is going on at Town Hall? Everybody at Town Hall is overpaid. Need to remove that 1,500 limit. You are creating another mooring list.

Scott Staniar homeowner with concerns about limiting STR, rental income is a necessary offset for the cost of utilities and taxes; our renters want to go out to the restaurants and stores, to help the economy.

Ed Teague has an STR in Barnstable, still puzzled as to what problem we are trying to solve. We have a department of Public Health for health code violations, the Police Department will take care of noise or loud parties. The Town authorities do respond when we have issues, what problem is associated with STR and not anything else.

Christian Teague thanks for another evening talking about things that do not exist. I don't see where the problem is, and it is a boon to the town. If you don't pass this tonight, let's

not take away our rights.

Councilor Response to Public Comment:

(Hebert) the Town is looking at other alternatives regarding the 5G, and what areas can be pursued.

(Levesque) Thanked everyone for taking the time to speak to public comment, and to Wendy Northcross for the data she provided.

(Clark) Responding to an email message from Sandy Evans, mentioned maintaining a quality of life, we are working on it. The new Town Councilor for Precinct 4 will be on the Council for the next meeting.

(Shaughnessy) Thank you for sharing your concerns regarding the 5G technology. To the second home owners, as a Cape Cod kid, every year we looked forward to the return of our summer friends; we wait all year to see. It warmed my heart to hear those memories.

(Schnepp) thanked everyone, this has been a long conversation regarding STR, but appreciated the new stories, our staff has been working harder than ever, to make sure the activities are on-going and the lights are on. Thanked all of the employees for their hard work.

(Town Manager, Mark Ells) beginning March 10th your municipal workforce have gone into an emergency response and planning mode; we have not closed Town Hall. I will be happy to give you the numbers of permitting, licensing, keeping our locations open and functioning in a safe environment. Please call my office and leave the details with me if you do not get a call back from any department.

(Bogan) the towns business has continued unabated, we have continued to do business. Many different people have come forward with their concerns regarding short term rentals. There are a number who have come forward, I do not agree with some of the remarks made this evening regarding privilege or malicious intent.

Close public comment

ACT ON MINUTES:

Upon a motion duly made and seconded it was to accept the Special Meeting minutes of October 29th as presented.

VOTE: PASSES 12 YES

COMMUNICATIONS- from elected officials, boards, committees, staff commission reports, correspondence and announcements:

Seeing none close communications

President Hebert passed the gavel to Vice President Rapp Grassetti for this item.

2020-192 ORDER AMENDING THE GENERAL ORDINANCES BY ADDING CHAPTER 190 SHORT TERM RENTAL PROPERTIES AND AMENDING CHAPTER 170 RENTAL PROPERTIES INTRO: 06/18/2020, 07/16/2020, 08/20/2020, 09/17/2020, 10/01/2020, 11/05/2020

(Bogan) there are many interests that need to be addressed by this general ordinance; feel it is not happening right now. We heard comments from families that own a home or second home owners and people who want to rent. The ability to rent as an STR; I don't believe we are addressing these issues. We should table this item indefinitely until we address these issues before we vote on this item or establish a task force. Protecting neighborhoods, the right to rent, keep out non owner occupied STR.

(Rapp Grassetti) This is not forum to speak to an item and introduce a motion at the same

time, which does not allow others to speak to the item

(Cullum) regarding the task force, would that be the same committee that has worked on this all along? If so, you would have the same results or would this be for those who have not spoken up thus far? There should be other Councilors on the committee.

(Bogan) no preconceived issues with the make-up of the committee

(Schnepp) We have had numerous committee meetings, staff meetings, Town Council meetings, public hearings, and arrived at a reasonable regulatory framework and recommendation regarding zoning changes, I feel we are not fulfilling our obligations as Town Councilors if we do not pass this along.

(Hebert) Each one of us have contributed, for the first time recently, I heard the rationale of tabling the item to a point into the future and allowing the Board of Health to take the responsibility for monitoring all the rentals. Councilors that wanted to see some new faces on this committee, perhaps some representatives from the public and staff to take another look or we move forward tonight and look at the amendments, we could set a time to say enough is enough; also heard that we should wait until the new Councilor is sworn in.

(Karen Nober, Town Attorney) regarding postponing indefinitely would be considered an unfavorable action and would trigger the 2 year rule, withdrawing the item would not be a considered an unfavorable action.

(Shaughnessy) the truth about long term versus short term, lot more risk with long term rentals, STR is more favorable with the level of commitment, circumstances change, need flexibility to come to the Cape when the schedule allows. At the state level there is a greater risk with a long term rental. At least 99 % of our STR's are doing it well; it is the few that are ruining for everyone else. Most people that come for a weekend want two nights only, the three night minimum on non owner occupied property, does not allow for people to come for a weekend. It is always easier to go back to change or strengthen the rules.

(Rapp Grasseti) sounds like Councilor Shaughnessy may have a problem with Item H on limits of the number of registrations town-wide.

(Hebert) What really bothers me is the total enforcement and control, what about our liability, after the Police have been involved. We have to have an ordinance that the Police can use when it is a dangerous situation. Those are the kinds of things we need to get a handle on.

(Levesque) we could all come up with doomsday scenario. There are parties all the time involving young people having parties and underage drinking. The police are called and they take care of the situation. We have a great Police Department

(Bogan) I don't like to disagree; frankly I do see some value of the Zoning and Regulatory Committee to be a part of this; sensitive to bring this matter to closure. Certainly willing to put a date on it and will amend the motion when that time comes.

(Dagwan) at our last meeting we had a divided Council on this subject; I don't rent my home, I have learned from both sides of the issue, we need to bring some of the strong proponents from each side to make up of the group, and to allow participation from our citizens. Include them along with the Councilors that have worked on this item, to help us come to the best solution. Bring together committee members, Planning Board members and the citizens along with legal to figure this out.

(Steinhilber) this issue has been talked about for 18 months, with numerous groups, staff, public comment, committee meetings, Council meetings, and we are failing the people by not getting the business done, when you have issue, come prepared with amendments. We are talking about talking about it. If you have issues with it come with your amendments.

Amendment:

(Schnepp) I move that Item No. 2020-192 be amended by striking subparagraph (1) of

Section 190-12 and renumbering subparagraphs (2), (3), (4) and (5) as new subparagraphs (1), (2), (3) and (4) respectively. Seconded (Cullum)

So the paragraph "Dwellings designated as below market rate or income-restricted, that are subject to affordability covenants, or that are otherwise subject to housing or rental assistance under local, state, or federal law " would be struck. This would ensure that there is no discrimination, if there are deed restrictions that is covered.

(Steinhilber) add some clarification from legal where they have an affordable unit and then renting that unit out. Do you feel there is enough detail in that paragraph?

(Nober) I don't think it needs to be in our ordinance, if someone is subject to deed restrictions it doesn't need to be in our ordinance. Our language may create a disparate impact of people who would be covered under the Fair Housing Act.

VOTE: Passes 11 Yes, 1 No (Bogan)

(Bogan) A motion was duly made and seconded to postpone discussion on this item until January 21, 2021 meeting.

Seconded (Neary)

Discussion:

(Bogan) this actual proposal came to the Council around the end of April, I am proposing to protect our neighborhoods, to allow single family zones to rent out their homes, occasionally. Trying to acknowledge that some people want to be able to rent their home occasionally, prevent non owner occupied homes, there are a third group of legacy owners. We need to protect these interests, let's take a little more time to discuss these issues.

(Cullum) the subcommittee addressed the legacy homeowners; my concern is that you are not talking about my neighborhood; you are talking about Barnstable, Osterville, Cotuit. We have put in endless hours, public comment, Town Council meetings and I am not in favor of postponing this item. Vote on this and move on to the billion dollar sewer project.

(Hebert) we are not done putting the amendments into this item; it did not come to this Council until June, to start to debate. There was no wastewater meeting that we missed, it went to Zoning and Regulatory, we did not miss one wastewater management meeting as it is a top priority for us.

VOTE: TIE: 6 Yes, 6 No (Cullum, Levesque, Neary, Schnepf, Starr, Steinhilber)

(Neary) Issues are length of stay is still an issue on non-owner occupied residences, frequency of stay or number of days allowed, the three zones in question that contend there should not be rentals in those areas.

(Neary) A motion was made to address non owner occupied vacation rentals, two night minimum stay, and concurrent a maximum of 50 leases or 50 rental contracts on an annual basis.

Seconded by Hebert

Discussion:

(Neary) It will allow the folks in time who depend on these rentals to provide and pay for their properties, by limiting the allowable periods, would work with season rentals, detract from corporations purchasing these properties to make them profit centers. Do not want to deter people from having a second home on Cape Cod; your home is an asset. Limiting number of annual rentals will prevent corporation from making this a business.

(Rapp Grasseti) You will need to identify where you would place this amendment such as 190-3 (I), perhaps Attorney Nober could you help with this motion

-Short two minute break to discuss with legal

(Neary) Counsel has advised that I should withdraw that motion, second withdrawn by Hebert.

(Bogan) I have a number of amendments that are premature, respectfully move that we table this item until we have a Councilor from Precinct 4, seconded by Hebert

(Schnepp) Would like to move to withdraw this item from consideration

(Bogan) will withdraw previous motion, second withdrawn by (Hebert)

(Schnepp) Made a motion to withdraw item 2020-192 from consideration by the Council Seconded by (Bogan)

VOTE: Passes to Withdraw - 10 Yes, 2 No (Steinhilber, Cullum)

2020-193 ORDER AMENDING CHAPTER 240 ZONING, ARTICLE II, SECTION 7 ADDING CERTAIN PROVISIONS PERTAINING TO SHORT TERM RENTALS INTRO: 06/18/2020, 10/01/2020, 10/15/2020, 11/05/2020
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(Levesque) made a motion that was duly seconded to withdraw this zoning amendment.

(Cullum) this is an absolute absences of leadership and 100% opposed to tabling this item and all this work and I am embarrassed that this is where we are.

(Levesque) Completely understand Councilor Cullum's distress, I was ready with amendments to this general ordinance, we just need to move forward, it is time to move on and let the Health Department handle the short term rentals. We had this information three times, if we can't pass this after all the hard work that was put forth by Councilor Schnepp, we move on and try to rally the troops again.

(Hebert) my job was to allow the Councilors to discuss the item, some chose not to discuss, I gave up the gavel so I could make an amendment, but I did not get a chance to present it. Leadership allows people to express themselves, I am not a bully and I am not running the show. We have lost our ability to be civil. My job is to allow Councilors to make the motions. We listened to the public.

(Bogan) motivated to do what is in the best interest of the Town of Barnstable, commend the president, commend and appreciate the work of Councilor Schnepp, not everyone involved has had clean hands, and that is why we are where we are.

(Schnepp) is there someone among us that does not have clean hands?

(Bogan) that would be my position

VOTE Passes to Withdraw 11 Yes, 1 No (Cullum)

2021-028 APPROPRIATION AND TRANSFER ORDER IN THE AMOUNT OF \$68,760 FOR THE INSPECTIONAL SERVICES DEPARTMENT FISCAL YEAR 2021 OPERATING EXPENSE BUDGET TO FUND A CONTRACT FOR THE COMPREHENSIVE MONITORING OF SHORT TERM RENTAL PROPERTIES INTRO: 10/29/2020, 11/05/2020
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Rationale given by Commissioner Brian Florence, stated that this is irrelevant, Town Manager Mark Ells asked to have this item withdrawn

Assistant Town Manager Andy Clyburn clarified with Legal that we can still bring this matter forward in the future before the Council. Put on record something very similar will be brought forward

(Nober) Yes we can bring this forward we would just need to re-advertise, basically start over.

(Florence) This could be of great value, provide a hotline for people to call and an provide valuable data with respect to complaints, registration for our existing rental program

(Dagwan) this would be a big benefit to this Council, when these items come up again, thank you for considering keeping this ability to provide information.

(Starr) what would be monitored here, are you looking at Airbnb advertisements, or registration lists?

(Florence) would provide us with who is or is not signing up to register as they are required. A 24-7 hotline for complaints to come in, call in, address identification for all short term rentals, full costs would be covered by the \$90 signing registration fee, good service, will provide us with data.

(Starr) If we put a limit of 50 rentals per year, is that something they can track?

(Florence) Yes

(Hebert) Are all STR's required to pay a fee now?

(Florence) Yes

(Ells) At this point we need to step back understand what we are going to accomplish with this, to discuss this with the Finance Director and bring this back at the appropriate time.

(Bogan) a matter of rewriting the item so that is does not refer to the withdrawn ordinance, so it can be back in a short time.

(Clyburn) yes

(Hebert) is the public hearing moot

(Nober) there is no need for a public hearing as you are withdrawing

(Neary) may have value in terms of giving us data, spending money with no offset of additional revenue.

(Clyburn) appreciate that but all of these rentals are required to register in the town, at a cost of \$90 and only about half of the STR are not registering, this would help us to capture that information.

(Neary) Thank you, we need to get all of these properties above board.

This matter is withdrawn.

**2021-033 APPOINTMENTS TO A BOARD/COMMITTEE/COMMISSION:
INTRO: 10/29/2020, 11/05/2020**

Resolved: That the Town Council appoints the following individuals to a multiple-member board/committee/commission: **Youth Commission:** Michaela Stampfl, c/o Hyannis Youth and Community Center, as a regular member to a term expiring 6/2021; Isabelle Rudy, c/o Hyannis Youth and Community Center, as a regular member to a term expiring 6/2021

VOTE: PASSES 12 Yes

**2021-034 REAPPOINTMENTS TO A BOARD/COMMITTEE/COMMISSION: INTRO:
10/29/2020, 11/05/2020**

Resolved: That the Town Council reappoints the following individuals to a multiple-member board/committee/commission: **Mid Cape Cultural Council:** Lynne Belfiore as a regular member to a term expiring 9/13/2023

VOTE: PASSES 12 Yes

**2021-035 AUTHORIZATION OF SUBMISSION TO THE FEDERAL
COMMUNICATIONS COMMISSION THE TOWN'S ASSENT TO COMMENTS
SUBMITTED BY THE CITY OF BOSTON INTRO: 11/05/2020**

Bogan recused himself from this item.

Town Manager, Mark Ells gave the rationale regarding the personal wireless service all the permits have been issued, there is no legal basis for an appeal, the Town Attorney advised perusing an appeal would not be in the Town's best interest. The steps we can take to maximize our local control, includes updating the Town's ordinances. We will continue to work towards the health and safety of the town and its residents.

RESOLVED: That the Town Manager be authorized to submit through the Town Attorney's office a written assent to comments previously submitted to the Federal Communications Commission (FCC) by the City of Boston petitioning the FCC to complete the work outlined in the FCC's Notice of Proposed Rulemaking issued December 4, 2019 in the "Targeted Changes to the Commission's Rules Regarding Human Exposure to Radiofrequency Electromagnetic Fields" and to reexamine the FCC's twenty-four (24) year old radiofrequency emissions standards.

VOTE: PASSES 12 YES

TOWN MANAGER COMMUNICATIONS

- Town Clerk Ann Quirk gave a post-election update
- The Town of Barnstable continues to follow the Orders and Directives of our Governor.
- We continue to monitor the FY2021 revenues and expenses and develop revenue projections for FY2022
- On October 26, the US District Court issued an Order and Judgement in the T-Mobile matter, ordering the Town to issue to T-Mobile all permissions and permits necessary to conclude the installation and operation of the personal wireless facility located at the South Congregational Church.
- The Town Council appointed the Town Manager as its representative on the Cape Cod & Islands Water Protection Fund Board (CC&IWPB).
- The FY2021 proposed property values are available for review while they are pending preliminary certification from the Bureau of Local Assessment of the Department of Revenue.
- Staff reports that the 2020 artist season was one of the most challenging but also the most rewarding seasons to date.

Councilor questions and comments:

(Hebert) The evaluation of our properties, are we stuck to the percentage, or can we revisit.

(Mark Milne, Finance Director) The disclosure period is to receive comments from the taxpayers, in those discussions if they point out significant errors; it gives us time for review before issuing the final tax bills. There is always an abatement process. We are in a reevaluation year every five years; the company we hired assisted us with these evaluations, it is based on calendar year 2019 sales data. It should have some impact of the FY2022 taxes.

(Shaughnessy) when I go to look at my proposed evaluation "suppressed due to request of taxpayer," how do I access my own?

(Milne) Call the Assessor's office directly; this extra security was put in place due to issues that were happening across the country.

(Bogan) The deadline has been extended to question the assessment.

(Milne) Deadline to have a meeting with the Vision Appraisal Company ends on Monday, but the public disclosure was extended to Friday the 13th.

(Rapp Grassetti) I hope the Assessor O'Neill will be at our next meeting to list on people's property page whether or not they live on a public or private road that should be on everyone's assessment.

(Milne) The property look up function will hopefully add the private road, public road, public sewer system or private septic system.

(Levesque) congratulations to the artist community, is there any movement for the block grant funding to help businesses

(Elizabeth Jenkins, Director of Planning and Development) We released a second round of money of small business grants we put out. Geographic eligibility is limited to the downtown area. Live, Love, Local to provide additional small business assistance

(Hebert) Veterans Day is coming up and I believe the town is covering an on-line program.

Adjourned at 10:00 PM

Respectfully submitted,

Ann M Quirk
Town Clerk/Town of Barnstable

NEXT MEETING: November 19, 2020